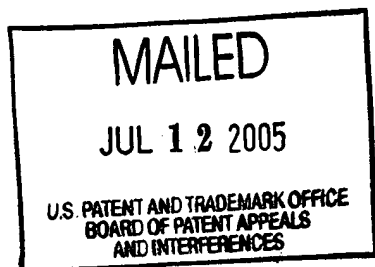


UNITED STATES PATENT AND TRADEMARK OFFICE



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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte LYLE BATE, STEPHEN R. CARTER  
and CARLOS A. NEVAREZ

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Application 09/450,867

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received at the Board of Patent Appeals and Interferences on June 23, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

Upon review of the Examiner's Answer mailed on December 9, 2004, the indication that an appeal conference has been conducted is defective since Examiner Willett has not initialed the Examiner's Answer. According to the Manual of Patent Examining Procedure (MPEP) § 1208 (8th ed., August 2001), when an appeal

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conference has been held, the appeal conference participants, which includes the examiner charged with preparation of the Examiner's Answer, must identify themselves as the conferees, along with placing their initials next to their name.

Furthermore, in accordance with MPEP 707.08:

After the action is typed, the examiner who prepared the action reviews it for correctness. The surname or initials of the examiner who prepared the action and the date on which the action was typed should appear below the action. If this examiner does not have the authority to sign the action, he or she should initial above the typed name or initials, and forward the action to the authorized signatory examiner for signing.

Further, on August 17, 2004, appellants filed a paper entitled "Appeal Brief". Although the "Notice of Appeal", filed June 21, 2004 authorized payment of any fees to Deposit Account No. 08-1394, the Appeal Brief fee has not been charged.


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Accordingly, it is

**ORDERED** that the application is returned to the examiner for taking corrective action regarding the appeal conference, for charging the Appeal Brief fee to Deposit Account No. 08-1394, and for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:

  
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Program and Resource Administrator  
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GJH

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